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OGC Has Reviewed

27 July 1954

MEMORANDUM FOR: Deputy Director (Administration)

ATTENTION : [redacted] 25X1A9A

SUBJECT : [redacted] 25X9A6

REFERENCE : Memorandum to the DD/A from DD/P-Admin, Same Subject,  
Dated 7 July 1954

1. By a back slip attached to the referenced memorandum, you requested the opinion of this office as to (a) the validity of Mr. [redacted]'s claim and (b) "implications" for the Agency should he take legal action to enforce it.

2. You know the facts, so they are not necessary of restatement here.

3. First, as to the legal validity of this claim, it is a well established principle of the law of Agency that the government, as principal, cannot be held responsible for the unauthorized actions of its agents or representatives. Persons dealing with agents or representatives of the government are presumed to know the exact limitations of their authorities. There can be little doubt, from a review of the facts in this case, that the act of the unidentified "Mr. Scott" in calling Mr. [redacted] at a date and time unspecified, and advising him that such phone call constituted an "alert" that he was to be ready to move in 30 days; that he was to wind up his personal affairs and give his employer notice, etc., was an act unauthorized by the Agency. This conclusion is apparent, *inter alia*, from the letter of October 6, 1952, from [redacted] to Mr. [redacted] advising him that he would not be accepted for employment by this Agency. This being so, the principle stated above is applicable to Mr. [redacted]'s claim; and it is the opinion of this office that this defense successfully could be interposed by the government in the event of a suit brought against it by Mr. [redacted]. In passing, and for internal consumption only, we note that this Agency probably could deny Mr. [redacted] access to such of its files as even would tend to prove his case under the "state secrets" doctrine of Totten v. United States (92 U.S. 105 (1875)) and subsequent cases. While we would like to comment on certain of the merits of Mr. [redacted]'s case, we shall refrain from so doing at this time in view of the absolute character of the defense stated.

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4. As to "implications", for the Agency should Mr. [redacted] bring his case into the United States Court of Claims. Such an action on his part would be adverse to the interests of this Agency on at least two counts. First, the names of employees of the Agency with whom Mr. [redacted] dealt, and some of whom are in various parts of the world in other ostensible employment, would become a matter of public record. The obvious consequence would be the revelation of their Agency connection. Second, from a public

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relations point of view, the facts involved are of a nature as not to reflect credit on the Agency's conduct of its recruitment affairs. Undoubtedly, our reputation already has suffered among those persons of Mr. [ ] acquaintance whom he has apprised of his situation.

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5. It may be that, if Mr. [ ] politely is advised of the legal principle set out in paragraph 3 above, he will refrain from placing the matter in the hands of his attorney. This office would be pleased to assist in the drafting of such a letter as well as to lend whatever other assistance it can should the matter continue to be one of moment.

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[ ]  
Office of General Counsel

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